

REMARKS

The final Office Action dated September 7, 2007, has been received and reviewed. Claims 17, 18, 20-23 and 29-31 are pending.

Support for Claim Amendments

The amendments presented above have been made to recite particular features of the inventions so as to expedite the prosecution of the present application to allowance in accordance with the USPTO Patent Business Goals (65 Fed. Reg. 54603, September 8, 2000). These amendments do not represent an acquiescence or agreement with any of the outstanding rejections.

Claims 18, 20-22, 23 and 29-31 are amended herein for clarity and it is believed that no subject matter is deleted via these amendments. New claim 32 is directed toward a specific embodiment of claim 22, and new claims 33-38 are directed toward specific embodiments of claim 18. Support for these claim amendments and new claims can be found in the specification, drawings and claims of the application as originally filed.

Applicants believe that these amendments and new claims introduce no new matter beyond the application as originally filed, raise no new issues and place the claims in better condition for allowance or appeal. As such, Applicants respectfully request entry of the amendment above and further consideration of this application in view of the amendment above and the remarks below.

Claim Rejections under 35 U.S.C. §102(b)

Claim 17 is rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Application Publication No. 2002/0116920 ("Pfeifer et al."). The Examiner alleges that the disclosures of Pfeifer et al. teach all the elements of the instantly claimed invention. Applicants respectfully disagree.

Applicants reiterate that case law holds and the Manual for Patent Examination Procedure (“M.P.E.P.”) states that a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Brothers v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Furthermore, the identical invention must be shown in as complete detail as is contained in the claim. *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Additionally, anticipation under 35 U.S.C. § 102 requires the disclosure in a single piece of prior art of each and every limitation of a claimed invention. *Apple Computer Inc. v. Articulate Systems Inc.* 57 USPQ2d 1057, 1061 (Fed. Cir. 2000). Furthermore, a finding of anticipation further requires that there must be no difference between the claimed invention and the disclosure of the cited reference as viewed by one of ordinary skill in the art. *See Scripps Clinic & Research Foundation v. Genentech Inc.*, 927 F.2d 1565, 1576, 18 U.S.P.Q.2d 1001, 1010 (Fed. Cir. 1991). Additionally, the cited prior art reference must be enabling, thereby placing the allegedly disclosed matter in the possession of the public. *In re Brown*, 329 F.2d 1006, 1011, 141 U.S.P.Q. 245, 249 (C.C.P.A. 1964). Thus, the prior art reference must adequately describe the claimed invention so that a person of ordinary skill in the art could make and use the invention.

The disclosures of Pfeifer et al. relate to a catalyst configuration wherein the first catalyst, upstream of a “second” and “third” catalyst, that reduces nitrogen monoxide to ammonia under rich fuel conditions by a reaction with hydrogen (see page 2 and chemical equation (i) of Pfeifer et al.). The first catalyst in the disclosures of Pfeifer et al. is immediately upstream of the third catalyst, which facilitates the oxidation of nitrogen monoxide to nitrogen dioxide (see page 3 and chemical equation (ii) of Pfeifer et al.).

This is in direct contrast to the catalyst configuration of the present invention, wherein the catalyst configuration comprises a first catalyst that reduces nitrogen dioxide to nitrogen monoxide, and wherein said first catalyst is disposed upstream of a second catalyst that reduces nitrogen monoxide to ammonia. In view of the foregoing, Applicants present that the disclosures of Pfeifer et al. do not teach all the elements of that which is instantly claimed, to which Applicants respectfully request that the present rejection under § 102(b) be withdrawn.

Claim Rejections under 35 U.S.C. §103(a)

Claims 18–23 and 29–31 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Pfeifer et al. in view of U.S. Patent No. 5,397,545 to Balling et al. (“Balling et al.”).

Applicants reiterate that in order to establish a *prima facie* case of obviousness, Applicants point out that the prior art reference or references when combined must teach or suggest *all* the recitations of the claim, and there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. See M.P.E.P. § 2143. The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. M.P.E.P. § 2143.01, citing *In re Mills*, 916 F.2d 680, 16 U.S.P.Q.2d 1430 (Fed. Cir. 1990). Lastly, the teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not in Applicant’s disclosure. *In re Vaeck*, 947 F.2d 468, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991).

It is the assertion of the Examiner that the disclosures of Balling et al. provide for a catalyst containing copper oxide and/or chromium oxide, and that it would have been *prime facie* obvious to one of ordinary skill in the art at the time the present application was filed to have incorporated such into the catalyst disclosed by Pfeifer et al. However, further to the remarks presented above, the disclosures of Balling et al. do not cure the deficiencies of the disclosures of Pfeifer et al. with respect to the placement of the catalysts or the specific combination of catalysts used.

Nonetheless, Applicants present new claims 33–38, directed toward a catalyst configuration, wherein said first catalyst (or upstream catalyst) comprises a chromium oxide. By the admission of the Examiner, the teachings of Pfeifer et al. do not disclose a first catalyst (or upstream catalyst) containing copper oxide and/or chromium oxide. Furthermore, Applicants present that the disclosures of Balling et al. are silent in regard to a catalyst configuration comprising a first catalyst, said first catalyst comprising a chromium oxide.

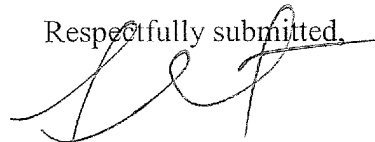
In view of the foregoing, Applicants thus present that the combination of the disclosures of Pfeifer et al. and Balling et al. do not teach all the elements of that which is claimed, to which Applicants respectfully request that the present rejection under § 103(a) be withdrawn.

CONCLUSION

Accordingly, Applicants submit that the present application is in condition for allowance and the same is earnestly solicited. Should the Examiner have any small matters outstanding of resolution, he is encouraged to telephone the undersigned at 919-854-1400 for expeditious handling.

A petition for extension of time is required with the filing of this paper and is filed concurrently herewith. The Commissioner is authorized to charge Deposit Account No. 50-0220 in the amount of \$120.00 fee for a one-month extension of time. This amount is believed to be correct. However, the Commissioner is hereby authorized to charge any deficiency or credit any overpayment to Deposit Account No. 50-0220.

Respectfully submitted,

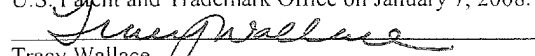


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CERTIFICATION OF TRANSMISSION

I hereby certify that this correspondence is being transmitted via the Office electronic filing system in accordance with § 1.6(a)(4) to the U.S. Patent and Trademark Office on January 7, 2008.



Tracy Wallace
Date of Signature: January 7, 2008